



UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/678,537 10/03/00 LASHLEY

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EXAMINER

GEHMAN, B

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

06/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/678531

Applicant(s)

Lashley

Examiner

Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 18, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-16 ^{and 19-20} is/are allowed.
- 6) ☒ Claim(s) 1-11, 17 ^{and 18} is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

1. Claim 9 is finally rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The structure recited in claim 9 is not described as related to the added limitations of the "means of attaching" in parent claim 1, and accordingly claim 9 as written comprises partial double recitation of the same structure.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 8-9 and 11 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (4,624,383) in view of Conner (2,217,644). Claims 1-2, 4, 6, 7, 9 and 11 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Klein (4,757,898). Claims 1, 3, 5 and 8-9 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Buchholz et al (4,785,953). Moore discloses employing a protrusion-recess combination in a container to render the container interlockingly stackable. Conner, Klein and Buchholz et al each disclose an apparatus comprising a base (5; 21; 24; 1; respectively) having a plurality of receptacles (5a; defined by 26; 54), a plurality of containers (1; 22; 18) including means (6; lower surface engaged by 26; lower surface of 18 frictionally engaged) for attaching, each of the containers inherently stackable on one another. To employ the particular container of

Moore in a combination of a particular container structure for securing to a base with the base having a plurality of receptacles as suggested by any one of Conner, Klein and Buchholz et al would have been obvious in order to ship and organize a plurality of the individual containers of Moore in a manner similar to any one of Conner, Klein and Buchholz et al.

As to claim 2, Conner and Klein each disclose a first dimension of the container (6; wall of 22; 34) slightly greater than a first dimension (top of 5; defined by 26; 48) of its corresponding receptacle.

As to claim 3, Conner and Buchholz et al each disclose a first dimension of the container (cylindrical wall of 1; other than 34) slightly lesser than a first dimension (top of 5; 48) of its corresponding receptacle.

As to claim 4, Klein discloses a plurality of walls (each side defined by elements 26).

As to claim 5, Buchholz et al disclose a recess (18).

As to claim 6, Klein discloses rows and columns.

As to claim 7, to provide specific numbers of columns and rows to provide a similar arrangement to that of Klein would have been obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

As to claim 8, to provide specific numbers of receptacles in a single row to provide a similar arrangement to that of Conner and Buchholz et al would have been obvious, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

4. Claim 10 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 and further in view of Ruff (D328,706). Ruff discloses providing a container of plural sides. To further modify the basic concept of the prior art employed against claim 1 employing the multi-sided shape teaching of Ruff would have been obvious, as a mere change in shape would not appear to distinguish any new and unexpected result.

5. Claims 17 and 18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of either one of Conner and Buchholz et al as employed against claims 1 and 11 and further in view of either one of Schaffer (692,166) and Sandhage (3,731,819). Schaffer and Sandhage disclose employing a multiple container arrangement for pharmaceuticals. To employ the concept of Moore in view of either one of Conner and Buchholz et al for particular contents such as in either one of Schaffer and Sandhage would have been obvious in order to derive the advantages of Conner and Buchholz et al for particular contents.

6. Applicant's arguments filed May 18, 2001 have been fully considered but they are not persuasive. While the combination of structure appears to be novel from the prior art, a container with means for attaching each container to the other, as disclosed by Moore, would be obviously be used in a base with plural receptacles, as taught by one of Conner, Klein and Buchholz et al, in a manner consistent with a consideration of all of the art taken as a whole. The base of Conner, Klein and Buchholz et al could be employed or the basic concept employed with various individual containers. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies

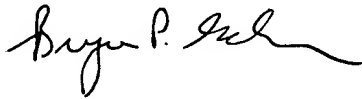
of such papers should be directed to the TC3700 Customer Service Center at (703) 306-5648.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Gehman of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Bryon Gehman whose workweek is Tuesday through Friday and telephone number is (703) 308-3866.

BPG

June 20, 2001

A handwritten signature in black ink, appearing to read "Bryon P. Gehman", with a stylized flourish at the end.

Bryon P. Gehman
Primary Examiner

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.